



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, March 12, 2007, at 7:00 p.m.

1. Call to Order/Roll Call

The following were present:

Mayor Billy Bain
Vice Mayor Rob Youngs
Councilman Bob Best
Councilman Paul C. Dotson
Councilman Xavier Garcia (arrived at 7:03 p.m.)

Also Present:

City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police H. Randall Dilling
Finance Director William Alonso
City Planner Richard E. Ventura
City Clerk Magalí Valls

2. Invocation: Vice Mayor Youngs offered the invocation.

Salute to the Flag: The audience participated.

3. Awards & Presentations: None.

4. Open Forum:

Prayer of the Candidates

Michael Gavila of 684 Morningside Drive Poinciana announced that the United Methodist Church will host the Prayer of the Candidates on Thursday, March 29, 2007 at 7:00 p.m. and everyone is welcome.

Candidates Luncheon

Dona Kelley of 830 Swan Avenue thanked the Women's Club for the excellent luncheon they sponsored for the candidates. She also thanked the candidates for attending this worthwhile event.

Political Signs

Mike Páez of 1001 Wren Avenue stated that he was cited for illegally placed political signs on his property. He was of the opinion that the Code Compliance Officers should notify the candidates and not be spending the time or resources posting violation notices for temporary signs.

Political Signs

George Selgas of 1041 Wren Avenue felt that it is a waste of taxpayers' money to pay the Code Compliance Officers to enforce the placement of political signs when there are more important matters to resolve.

Political Signs

Bob Shultz of 100 Sunset Way informed Council that he also received a notice of violation for political signs and he will move his signs when everyone else moves theirs.

Recreation Center

Bob Shultz of 100 Sunset Way said that he was concerned about the staggering figures he has heard for the construction of a new Recreation Center, which keeps changing and are exaggerated. He stated that the Recreation Center is a disgrace with a leaking roof, crumbling walls and plywood barricades. The facility is an embarrassment and safety hazard that no one wants to talk about and something must be done to correct the situation.

River Cities Community Charter School

Alexandra Mirabol of 580 La Villa Drive presented information to Council regarding the parent driven Charter School that was approved by the Miami-Dade County School Board and will open in the Fall of 2007. She explained that the school will be a Middle School with 6th, 7th and 8th grades, the parents have no financial history, the grant process was delayed and there are no funds available for initial start-up costs.

Ms. Mirabol stated that the parents committee is negotiating a lease with the Presbyterian and Baptist Church for the available classroom space and there are more than 100 student applications. The parents are seeking financial assistance from various cities, including Miami Springs, Virginia Gardens, and Medley. She requested a donation of \$5,000 to help fund the school.

5. Approval of Council Minutes: (approved after 6F)

5A) 02/26/2007 – Regular Meeting

Minutes of the February 26, 2007 Regular Meeting were approved as written.

Vice Mayor Youngs moved to approve and Councilman Garcia seconded the motion, which was carried unanimously on roll call vote.

6. Reports from Boards & Commissions:

6A) 02/20/2007 – Education Advisory Board – Minutes

Minutes of the February 20, 2007 Education Advisory Board meeting were received for information without comment.

6B) 03/05/2007 – Memorial Committee – Minutes

Minutes of the March 5, 2007 Memorial Committee meeting were received for information without comment.

6C) 03/06/2007 – Code Enforcement Board – Cancellation Notice

Cancellation Notice of the March 6, 2007 Code Enforcement Board meeting was received for information without comment.

6D) 03/08/2007 – Board of Parks and Parkways – Cancellation Notice

Cancellation Notice of the March 8, 2007 Board of Parks and Parkways meeting was received for information without comment.

6E) 03/05/2007 – Zoning and Planning Board – Cancellation Notice

Cancellation Notice of the March 5, 2007 Zoning and Planning Board meeting was received for information without comment.

6F) 03/05/2007 – Board of Adjustment – Approval of Actions Taken at their Meeting of March 5, 2007, Subject to the 10-day Appeal Period

Actions taken by the Board of Adjustment at their meeting of March 5, 2007 were approved subject to the 10-day appeal period.

Councilman Best moved to approve and Councilman Garcia seconded the motion.

Councilman Dotson was concerned about the request for a beer and wine license for the Aladdin Hotel because it was built when there were no district boundary regulations in effect. He recalled that a possible mistake was made by assuming that the property was located in the B-1 Business District, and the hotel is asking for permission to secure the license when there are unresolved questions involving the establishment. He requested more discussion about the hotel's existence and if there are matters to address or correct.

City Attorney Seiden explained that the case involving the Aladdin Hotel was tabled and the case will go back to the Board of Adjustment. The Board will make a decision based on the City Planner's investigation and the case would come back to Council.

On roll call vote, the motion was unanimously carried.

7. Public Hearings:

None.

8. Consent Agenda:

8A) Approval of the City Attorney's Invoice for February 2007 in the Amount of \$9,339.00

There was no discussion regarding this item.

Councilman Dotson moved to approve and Councilman Best seconded the motion, which carried unanimously on roll call vote.

8B) Recommendation that Council Approve an Expenditure in the Amount of \$500.00 for the Florida Missing Children's Day Annual Ceremony on September 10, 2007 at the State Capitol in Tallahassee to Assist in the Additional Financial Support Needed, as Provided for in Section 31.11 (E) 6) (c) of the City Code, to be Paid from the Law Enforcement Trust Fund

There was no discussion regarding this item.

Councilman Dotson moved to approve and Councilman Best seconded the motion, which carried unanimously on roll call vote.

9. Old Business:

9A) Appointment to the Ecology Board by Mayor Bain for a Full 3-Year Term Ending on April 30, 2009 (Joe Podgor's seat)

Mayor Bain **deferred** his appointment to the Ecology Board.

9B) Appointment to the Ecology Board by Councilman Dotson (Group II) for an Unexpired Term Ending on April 30, 2008 Created by the Resignation of Maria Mikluscak

Councilman Dotson **deferred** his appointment to the Ecology Board.

9C) Appointment to the Ecology Board by Vice Mayor Youngs (Group IV) for an Unexpired Term Ending on April 30, 2007 Created by the Resignation of Donna Dawson

Vice Mayor Youngs **deferred** his appointment to the Ecology Board.

9D) Appointment to the Recreation Commission by Mayor Bain for an Unexpired Term Ending on April 30, 2007, Created by Three Absences of Roger Del Rio

Mayor Bain **deferred** his appointment to the Recreation Commission.

9E) Appointment to the Civil Service Board by Councilman Garcia (Group III) to Fill an Unexpired Term Ending on June 30, 2009 (Roslyn Buckner's seat)

Councilman Garcia **deferred** his appointment to the Civil Service Board.

9F) Appointment to the Code Enforcement Board by Vice Mayor Youngs (Group IV) to Fill an Unexpired Term Ending on September 30, 2007 Created by Three Absences of Erik Michelson

Vice Mayor Youngs **re-appointed** Erik Michelson to the Code Enforcement Board for an unexpired term ending on September 30, 2007.

9G) Appointment to the Golf and Country Club Advisory Board by Mayor Bain to Fill an Unexpired Term Ending on July 31, 2007 Created by the Resignation of Noel Pereda

Mayor Bain **deferred** his appointment to the Golf and Country Club Advisory Board.

9H) “Fifth” First Reading – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-041, R-1A District; 150.042, R-1B District; 150.043, R-1C District, and 150-044, R-1D District, to Provide a New Building Height Exception, Lot Coverage Restriction, and Side Yard Requirements for Two-story Structures; Repealing all Ordinances or Parts of Ordinances in Conflict; Providing an Effective Date (Deferred: 2/26/2007)

City Attorney Seiden read the ordinance by title.

Attorney Robert Krawcheck of 200 South Biscayne Boulevard stated that he and Stanley Price from the law firm of Bilzen Sumberg Baena Price and Axelrod were present representing Gary Johnson of 475 Deer Run. He appreciated having the opportunity to meet with Staff prior to this first reading and understands that there have been a number of first readings for this ordinance that has far reaching impacts in the community.

Attorney Krawcheck said that an extensive meeting was held with Staff and there were numerous follow up conversations, including a discussion with a lady who expressed her opinion that the impacts that would occur to property owners in the R-1A district was not the intention of the ordinance.

Attorney Krawcheck stated that there seems to be a consensus among Staff and interested persons as to what can be done to alleviate the most egregious, unintended impacts. The lot coverage limitations penalize the larger lots by reducing the square footage of the construction and Mr. Johnson would lose 1,650 square feet on the first floor alone, which pushes people to build a second story. The total impact is that Mr. Johnson would lose 38% of the buildable area and this equates to a loss of hundreds of thousands of dollars.

Attorney Krawcheck said that everyone agrees there should be a place for grand homes in the community and the district on Deer Run and Hunting Lodge Drive has historically been a place for grand homes. In this historic tradition, Mr. Johnson wants to improve his property as he was told would be allowed before he purchased and invested in the property. He was of the opinion that there is no need for the ordinance to apply to the R-1A district.

Attorney Krawcheck felt that that losing approximately 40% of the buildable square footage and being penalized hundreds of thousands of dollars would be considered an inordinate burden, where monetary relief is contemplated by the Bert J. Harris Act. The proposed provision for an additional 7-1/2 foot setback for the second story is another unintended consequence because it creates a problem by having to build a load bearing wall under a second story wall. The suggested solution would be to allow the option of leaving the additional 2-1/2 foot indentation for the second story or to set back the first story an additional 2-1/2 feet and build straight up.

Attorney Krawcheck hoped that the suggestions would go a long way toward addressing the problem. He said that Staff was provided with a working ordinance that is used elsewhere to assess deprivations of vested rights and issues related to the Bert J. Harris Act. The process will take time to adapt to the particular circumstances in the City, this is a substantial start and they would be happy to work with the City's legal staff.

Councilman Dotson stated that Mr. Johnson's vested rights should be respected and he would like clarification as to what the City's vested rights might be. He asked City Attorney Seiden to respond as to the City's position in reference to the Bert J. Harris Act.

Councilman Best said that the proposed ordinance was intended more for the R-1B, R-1C and R-1D districts and it would be prudent for legal staff to review the suggestions because there might be some compromise.

City Attorney Seiden referred to additional material distributed by the City Manager that Council requested showing the depths of the lots in the City. Insofar as the Bert J. Harris Act, a determination as to whether a property is inordinately burdened is defined within the statute and provisions are included where the damage to a particular lot could be mitigated.

Attorney Seiden stated that past Councils have taken the position that they would not want to enact legislation that would create a problem and it should be done properly the first time. He said that a consultant should have been hired when the "Mc Mansion" building moratorium was first instituted.

Attorney Seiden said that the issues raised by Mr. Krawcheck and his client are relevant and there are other issues that should be addressed as part of the discussion. He explained that there is nothing wrong with multiple first readings as long as Council is trying to move forward in the proper manner and it is important not to violate property rights, cost the City any money or get into a situation with an indefensible position.

The R-1A district is certainly a factor and there could be lots in the R-1B district or in the other districts that are more than 10,000 square feet, according to Attorney Seiden. The R-1A district is mentioned because it requires the minimum square footage of property to be developed. He suggested that if the ordinance were to exempt the R-1A district that it should also exempt any lots that are in excess of that amount regardless of what district they are located in.

Attorney Seiden explained that Council must consider the nature of the 42% lot coverage and the 115 feet depth. In light of the new chart produced by the City Manager, 89% of the lots would exceed 115 feet in depth as opposed to 11% that would fall within the category.

Attorney Seiden advised Council that the side yard setback is another issue. He does not feel that the 2-1/2 feet is as much of an issue in regard to the weight bearing wall as the proposed provision that would require an additional 10% setback or 7.5 feet minimum. He suggested that an opinion could be obtained from the City's Building Official. The problem is the indentation of an additional five-feet and a change in the side yard setback for new two story structures might solve the problem.

Attorney Seiden said that consideration could also be given to increasing the rear yard setback for two story structures from 25-feet to 35-feet. There are many issues that came up as a result of the notice of the claim and the appropriate issues should be examined.

Councilman Dotson stated that other cities like Miami Beach and Coral Gables have lot coverage restrictions and Council is trying to determine what restriction would fit Miami Springs. He said that this process could take away a property owner's vested rights and he would like to know at what point this should be done.

Mayor Bain said that the setback requirements in the City's current ordinance do not allow for more than 40% lot coverage. In his opinion, the 1977 ordinance, if properly enforced, is sound and good for Miami Springs.

Councilman Garcia stated that he had mentioned hiring a consultant and the majority of Council insisted moving forward to amend the ordinance. He agreed with Mayor Bain that there would not be any problems if the current ordinance is properly enforced, while the proposed ordinance would affect the majority of the homeowners. He reiterated that a consultant should be hired if Council is inclined to continue the process of revamping the ordinance or else the current ordinance should stand as is and be properly enforced.

Vice Mayor Youngs gave credit to Council for taking on the issues and trying to find the best way to solve problems. He said that the height restriction was first considered, which everyone agreed upon and there was discussion about changes to the setbacks and lot coverage restrictions. There is a consensus on the height and setback restrictions, which are minor adjustments to the ordinance.

Vice Mayor Youngs was of the opinion that Council is not ready to make a decision on the lot coverage restriction because of the new information showing the number of homes on larger lots and the lack of understanding about where the line should be drawn in regard to the Bert J. Harris Act. The intent is to protect green space, but not at the expense of someone's property rights.

Councilman Best stated that the 42% lot coverage seems to be the issue in the R-1A district.

Vice Mayor Youngs agreed and added that he is not sure if the R-1A district should be exempt or what the lot coverage restriction should be and it would require a lot of work for Staff in order to determine the lot sizes in the City.

In response to Councilman Dotson's question, Attorney Seiden said that virtually every city enacted their code long before the Bert J. Harris Act, which came into effect in 1995.

Vice Mayor Youngs suggested a "savings" provision and procedure clause so that if someone made a Bert J. Harris Act claim, the statute would remain effective and there would be a provision for an appeal.

Attorney Seiden explained that Mr. Krawcheck designed the provisions for Miami-Dade County in regard to vested rights, which is a complex procedure. He said that subsection (4) (c) of the Bert J. Harris Act provides that within a 180-day period, unless extended by agreement of the parties, the governmental entity shall make a written offer to effectuate certain procedures, including a variance or conditional approvals that would somehow obviate the effect.

Attorney Seiden said that the most shocking information is that the 42% lot coverage restriction would affect 89% of the lots in the City, which is quite an impact that no one anticipated and there might be another way to solve the “Mc Mansion” problem. He felt that no one wants a gigantic two-story building in an already built-out single family residential neighborhood, which Miami Springs is, and because the houses are getting older, the City must guard against developers who might want to buy lots for redevelopment.

Attorney Seiden stated that a lot coverage restriction almost encourages two-story development and it might not accomplish the main goal that is related to two-stories more than to single stories. He suggested that there could be a difference between single-story and two-story construction and the issue is really new construction because second story additions are controlled by the existing Code.

Attorney Seiden explained that the problem might be solved by increasing the side yard setback from 10% to 12 or 13% of the width of the lot, or increasing the rear yard setback ten-feet for new two-story homes. Council must have a reasonable basis for making a decision to amend the ordinance and feel comfortable with any issues that might arise.

Councilman Dotson commented that preservation of the character of the community was a concern, as well as preserving green space by preventing the construction of huge homes on small lots. He said that it is a problem because there is no inventory of the lot sizes in the City and Council needs this information.

Attorney Seiden stated that green space is obviously very important and the indentation for new two-story construction does not really impact green space. It might be better to increase the side yard setback requirements to protect the green space and still have the same separation between the properties on the second story.

Councilman Dotson said that the original intent was to increase the side yard setback and the problem with the second story indentation evolved based on the complaints from the public.

Attorney Seiden felt that the second story indentation was a product of trying to protect the privacy of the neighbors.

Councilman Best stated that Council decided on the lot coverage restriction to protect the green space and this deserves further consideration based on the new information provided by the City Manager.

Mayor Bain reiterated that the current ordinance would be sufficient as long as procedures are implemented in the Building Department to provide for additional plan reviews or inspections in order to make sure that construction is done according to the Code.

Attorney Seiden said that the Board of Adjustment recommended a system for new construction from the ground floor up that requires an as-built survey to certify distances before the foundation is put in place. He explained that other cities have this requirement.

Attorney Seiden agreed that mistakes had been made that should be corrected, but Miami Springs is much better off than most municipalities in the County because there are no lawsuits or adversarial proceedings.

Mayor Bain said that litigation had been avoided because the ordinance had not been changed since 1977, and when the rights of the property owners are taken away they will want them back. He suggested that the City should adopt the proper procedures or policies for new construction.

Councilman Garcia moved to direct the Administration to immediately establish a policy to require “as-built” surveys. Vice Mayor Youngs seconded the motion, which carried unanimously on roll call vote.

Vice Mayor Youngs moved to adopt the height restriction provision of the ordinance as proposed and Councilman Garcia seconded the motion.

Attorney Seiden clarified that the new language would read as follows:

“Notwithstanding the foregoing, the Board of Adjustment and the City Council can approve additional heights for structures when the additional heights are for architectural design features, which do not constitute living space and which are not inconsistent with the character of the surrounding neighborhood. Any application for approval pursuant to this provision shall not be considered a variance, but an exceptional approval by the Board and the City Council.”

City Attorney Seiden stated that the building height had always been in the code and it was modified to allow for architectural design features.

On roll call vote, the motion was unanimously carried.

Councilman Best said that he would like an agenda item for the next meeting to discuss further changes that might be prudent. The 42% lot coverage seems to be the issue.

Mayor Bain added that there is an issue with bringing in the second story an additional five feet.

Attorney Seiden stated that the remaining issues to consider include the lot coverage based upon the depth of the lot, a limitation as to one particular district or by square footage of the lot, and the impact of the side yard by reconfiguring the way that second stories are permitted to be built.

Councilman Dotson stated that he would also like to discuss the issue at the next meeting, including the setbacks. He requested an inventory of the lot sizes and was of the opinion that the ordinance could be amended so that it meets the legal realities.

Councilman Best said that there are oversized lots in all the districts and restricting the percentage of lot coverage might not be the right way to proceed. He was of the opinion that a lot of work had been done and it would not be in the City's best interest to start over again.

City Attorney Seiden stated that the City must be able to defend the ordinance. He suggested that the City Planner could do research to find justification for the changes and get additional input from Mr. Johnson's attorneys.

Councilman Garcia agreed that he would not want to scrap the ordinance after all the work that was done. He said that Council made the decision to go through the process and the new information shows that the lot size might not be the way to proceed. He would like professionals to help.

Attorney Stanley Price of Bilzen Sumberg Baena Price & Axelrod thanked Council for their time and the opportunity to work with Staff.

9I) Update on Food and Beverage Service at the Country Club

City Manager Borgmann stated that he prepared an update per Council's request.

Jerry Burkhart of 451 Crescent Drive said that the food at the Golf Course is exceptional. The problem is that when the golfers arrive early in the morning there is no service available for food or drinks and the restroom facilities have not been cleaned.

City Manager Borgmann said that the Administration is working with Carlos Santana to allow the City to provide for coffee and pastries early in the morning in the Pro Shop. He knows the quality of the food is good, while the service and quantity of food on Karaoke night have been criticized.

City Manager Borgmann said that the service issues are finally being resolved. He explained that Mr. Santana was very involved in fulfilling his contract to improve the quality of the banquet rooms, which creates a better environment at the Golf Course that could attract new players.

City Manager Borgmann stated that Mr. Santana has a new menu that should help to speed service for the golfers, especially at the turn of the 9th hole and food orders can be called in from the course.

Councilman Dotson asked if Mr. Santana is bound by contract to provide the operational services that are listed.

The City Manager explained that Mr. Santana is bound to provide the services and basically he is complying, although the level of service for golfers and citizens might not be as good as the service that is provided for local civic groups.

Mayor Bain stated that the hours of operation would now be posted.

City Manager Borgmann agreed that the hours would be posted. He added that the Sunday Brunch is scheduled to begin and Mr. Santana will determine the market and what menu the community would support.

9J) Evaluation and Appraisal Report (EAR) Review

City Manager Borgmann stated that the Administration had been in constant contact with Paul Darst at the Florida Department of Community Affairs. The additional questions and answers were given to Michelle Glenn at the Florida International University (FIU) Metropolitan Center for redrafting and submittal to Mr. Darst as soon as possible.

City Planner Richard E. Ventura stated that he followed up with Ms. Glenn to make sure that the revisions requested are being incorporated into the text of the Evaluation and Appraisal Report (EAR) for submittal to Tallahassee. He also stays in telephone contact with Mr. Darst to make sure that the revisions will satisfy the previously released comments.

City Planner Ventura explained that most of the comments are related to the status of East Drive, which is a problem. He assured Mr. Darst that he would review the report and give a fair evaluation to any of his suggestions in order to alleviate the situation.

City Manager Borgmann said that Mr. Darst had met with the Administration to go over how the EAR should be drafted, the report was prepared according to his suggestions and it still is not finalized. Mr. Darst was informed that East Drive is a county collector road and it also has a state road designation; therefore, the solution should be a county or state solution.

City Planner Ventura stated that Ms. Glenn would bring back text incorporating all the changes that were made since the last time the EAR was presented to the public on July 10, 2006, at the next meeting.

City Attorney Seiden said that the City would advertise notice of the public hearing at the Regular Meeting of March 26, 2007.

Councilman Dotson questioned why East Drive is rated level of service "E" because there is not that much traffic as compared to N. W. 36th Street that is also an "E" road.

City Planner Ventura stated that the rating was established due to the traffic during peak hours and it is the only road in the City with that condition.

City Manager Borgmann clarified that the rating is established by the County based on their traffic count. He said that originally cars may have been cutting through East Drive when the barricades were placed or the traffic count was done before the Le Jeune Flyover was finished, which takes a lot of traffic out of the City.

Vice Mayor Youngs said that the Le Jeune Road construction caused people to cut through and now it might now be a higher service level.

Mayor Bain felt that the State should require the County to provide updated information. He asked City Planner Ventura to determine the date of the last traffic count.

9K) Report from Post Buckley Schuh & Jernigan Regarding the Gymnasium

Dona Kelley of 830 Swan Avenue stated that the 2000 engineering report estimated \$2MM and there is no such thing as a firm estimate. The citizens are already obligated to pay for the Golf Course General Obligation bonds and everything possible should be done to repair the facilities for the least possible cost.

City Manager Borgmann stated that since the last meeting he forwarded the request to Post Buckley Schuh & Jernigan (PBS&J) to analyze the steel super structure of the gym to determine whether or not it could still support new concrete or steel panels and a new roof. When he asked for an update of the letter dated 2000, he was contacted by Patricia Carney from PBS&J who indicated that the cost estimates would need to be increased by 40 to 50% to equal current dollars, or \$2.5 to \$3MM.

City Manager Borgmann said that the new estimate gave two prices depending on the type of foundation. With a shallow foundation, the cost was \$1,791,000 and with pile foundations it went up to \$2,013,000.

City Manager Borgmann referred to a letter from Jim Nadasky, P. E. and Senior Structural Engineer with PBS&J dated June 21, 2000, that states, "The estimate will not consider the reuse of the steel framing from the existing gym. I have reconsidered this "option" from my June 1st letter. The steel was probably primed with lead paint, and the salvage and remediation costs outweigh the benefits of reusing the steel." In essence, PBS&J was recommending a complete demolition of the entire structure.

City Manager Borgmann said that he would hire a structural engineer to evaluate the steel if Council still wants him to do so.

Councilman Dotson stated that it is possible that there is a process for recoating the steel with paint. The remediation required by OSHA and other environmental groups could make this extremely expensive. He would like an evaluation by an engineer who could give a professional opinion to determine the best options.

Mayor Bain said that it would be Council's decision whether or not to pursue another engineering firm. The 2000 PBS&J report explains everything about the condition of the gym at that time. He would support another engineering report in order to answer the questions.

Councilman Best would like an engineer to evaluate the salvage and remediation options.

City Manager Borgmann added that there is an asbestos concrete issue.

Councilman Garcia asked the City Manager to inform Council when he determines the cost estimate for the engineering service.

9L) Recreation Needs Assessment Update

City Manager Borgmann stated that when Council approved the Recreation Needs Assessment they asked him to find out what the cost would be for additional mailings. He was advised that the company can do up to 4,700 mailings for \$20,000, which is an additional \$1,500.

By consensus, Council approved the expense for the additional mailings.

9M) Approval of Contract with Heisenbottle Architects

City Manager Borgmann stated that the contract with Heisenbottle Architects calls for a payment of \$199,827 and the \$1MM County grant that the City is charged with administering allows up to 17% in "soft" costs for planning, engineering, designs, etc. He explained that 17% is \$170,000, which means there is a \$30,000 shortage.

City Manager Borgmann said that if the City signs the contract, Curtiss Mansion, Inc. (CMI) would have to raise \$30,000. The issue is whether or not Council wants to approve the contract in an amount up to \$170,000 and hopefully CMI would be able to raise the additional funds in the interim.

City Attorney Seiden said that he spoke with CMI President Jo Ellen Morgan Phillips who asked County representatives if the contract could be authorized for an additional amount of money over the 17% to cover the shortfall or to re-characterize it based upon a credit for previous monies that were used to maintain the Mansion during other years. He explained that Ms. Morgan Phillips believes that the County would agree but there is no written verification.

Attorney Seiden said that the contract would be for the entire \$288,000 but a provision should be added to state that the initial funding of \$199,000 would have to be authorized and the remaining two phases would not be funded unless additional monies were appropriated.

The City Attorney explained that the contract could be approved up to \$170,000 or the entire contract could be approved conditionally upon satisfactory amendments that would be within the City's control and confirmation from the County that the entire shortfall would be available.

Attorney Seiden stated that Finance Director William Alonso deserves credit because he pointed out the 17% provision. In any event, the City should not sign the contract unless it is amended to be clear that the additional monies would not be due from the City unless another funding source is generated subsequent to the next phase, and also that the current phase was not totally funded for "soft" costs authorized by the County.

Councilman Garcia moved to approve the contract with conditions and Vice Mayor Youngs seconded the motion.

Councilman Dotson said that he does not like approving a contract that is insufficient and placing conditions on it that could create problems for the City to control. He would hope that Mr. Heisenbottle was informed that his price is too high and that if he wants to continue working with the project that he might have to make some compromises. He felt that the City should argue for its position and there should be no uncertainties.

Mayor Bain stated that \$170,000 is available from the County bond issue and the remaining funds are uncertain.

City Attorney Seiden clarified that the funds are available but only 17% of the \$1MM grant can be used for "soft" cost items.

To answer Councilman Dotson's question, Attorney Seiden explained that there will be additional "soft" costs for an audit and minor matters that the City will have to recoup and Finance Director Alonso calculated that if the County would authorize up to 21%, the City would be covered.

Councilman Best asked if CMI would be responsible for raising the additional funds.

Attorney Seiden said that CMI would have to raise the funds if the County does not authorize 21% for "soft" costs or rework the numbers. He explained that the contract is similar to the one that was negotiated with CMI before the City went out for Request for Proposals.

City Attorney Seiden agreed that questions remain unanswered and he would not permit the City Manager to execute the contract and go forward unless it is done on a conditional basis or Council could decide to wait.

Vice Mayor Youngs stated that he would rather wait to approve the contract when it is ready.

Councilman Garcia asked if CMI mentioned that delaying the contract would hinder their progress in any way.

City Attorney Seiden said that Heisenbottle Architects would not begin work until the contract is signed and Ms. Morgan Phillips was more concerned about the impact on the groundbreaking ceremony that is taking place on March 26, 2007.

City Manager Borgmann stated that the groundbreaking is ceremonial in nature and hopefully the County will agree to release additional funds.

To answer Mayor Bain's question, City Attorney Seiden said that it would not be preferable for Council to approve the contract up to \$170,000. The contract should be approved conditionally, or not at all.

Councilman Best asked if Mr. Alonso's time for his accounting services would be recoverable.

Finance Director Alonso explained that project administration and Staff time are considered as part of the "soft" costs. The grant also requires an annual audit, which is an additional \$4,000 to \$5,000 per year.

Councilman Garcia withdrew his motion and Vice Mayor Youngs withdrew his second.

10. New Business:

10A) Presentation of the February 2007 Golf Course Financials

City Manager Borgmann stated that Finance Director Alonso would present the latest financial figures for the Golf Course for the first five months of the fiscal year. He was pleased to announce that the Golf Course operation is doing quite well exceeding prior years, which is a positive trend.

Finance Director Alonso stated that the key financial indicators outlined in his memorandum are most revealing. He compared the first five months of this fiscal year to the same time period last year and two years ago in 2005, before controls were implemented.

Mr. Alonso explained that total revenues are up 23% from last year and 30% from two years ago. Total rounds are up 13% and driving range revenues are up 26% over last year and up 59% from two years ago.

Finance Director Alonso stated that two years ago the average per round was \$22.50 and this year it is \$27.18, which is almost 21%, and it is up 6% from last year. The Pro Shop costs have decreased almost 15% from last year due to personnel reductions, while maintenance increased about 5%.

Finance Director Alonso explained that memberships are running 3% less than last year, although memberships were extended until November because of the greens renovation. Membership sales total \$89,000 compared to \$91,000 last year.

Finance Director Alonso said that the goal for the Golf Course is to break even this year and they are making significant headway. There is an operating profit for the first five months of \$5,664 compared to a loss of \$123,000 last year and \$150,000 two years ago.

Councilman Dotson asked why the total revenues for February 2007 are below budget.

Finance Director Alonso said that the revenue is down \$16,000 for the month or \$40,000 year to date. He stated that they may have been over aggressive in budgeting revenues or it could be due to the time that it took to get the new greens in shape. He added that the revenue is still ahead of the figures for last year.

Councilman Dotson was of the opinion that \$27.00 per round is low, especially in the winter. He said that weekend play has been setting records.

Finance Director Alonso clarified that February had the two highest Saturdays in the history of the Golf Course with more than \$9,000 in revenue.

Mayor Bain explained that Golf Director Mike Aldridge is concerned about the lack of play during the weekdays in the early morning. He said that overall a fine job is being done.

Finance Director Alonso answered Council's questions to their satisfaction.

To answer Councilman Garcia's question, City Manager Borgmann said that the improvement of the golf operation was a team effort that started several years ago by analyzing the numbers and searching for viable solutions. The privatization of the food and beverage operation eliminated those costs from the City's books, which had been a \$300,000 loss every year.

City Manager Borgmann explained that the Administration would have never considered establishing a Department of Golf with the food and beverage component. The City crews maintain the parks and City owned property and there is a recreation center with various activities, so bringing in the golf operation was not out of the ordinary. The decision was recommended by the Administration and approved by Council.

City Manager Borgmann explained that controls were implemented with the Vermont System to make sure all revenue goes into the system.

10B) Discussion Regarding Proposed Property Tax Relief

City Manager Borgmann stated that much of his time in the past ten days has been spent reading all the documents and articles that were forwarded by the Florida League of Cities regarding the pending property tax legislation in Tallahassee. He said that while no one can say they are opposed to lowering taxes, it is important to pay close attention to how it is accomplished.

City Manager Borgmann said that the public plan is being pushed forward in the House of Representatives and the Governor has a proposal on the table. The Senate is beginning to make their recommendations for consideration.

City Manager Borgmann stated that there are certain problems with the House plan and several unknowns about the Governor's plan. The Miami-Dade County City Managers are questioning the plan to replace property taxes with sales taxes because it might not be a trustworthy revenue source if there is a downturn in the economy.

City Manager Borgmann explained that the City of Miami Springs could lose \$2.4MM if the Constitutional Amendment is passed that basically removes property taxes all together and rolls back commercial property taxes. He said that the proposed bill provides for Council to adopt a higher millage over and above the roll back rate in order to support the services of the community. This can be done with a 2/3 vote, which in Miami Springs' case would be a 4/5 vote.

Council will be put into a position by the legislature to make a decision and take the blame for raising taxes, according to the City Manager. He does not like that kind of logic because Council should not be put into situations where they must make decisions based on bad legislation. The Governor's plan calls for the additional homestead exemption from \$25,000 to \$50,000 and the loss of revenue for Miami Springs would equal \$600,000+.

City Manager Borgmann said that the concern is statewide throughout cities and counties and it is important to take action by contacting the legislative representatives in Tallahassee. There is a group of ten Miami-Dade County City Managers who are planning to meet with Representative Marco Rubio to discuss their concerns.

To answer Councilman Best's question, Mr. Borgmann responded that there are constitutional questions related to the proposal to make the Save Our Homes savings portable to another home.

City Manager Borgmann stated that the property taxes are being addressed and the concern is making up the loss of revenue.

Vice Mayor Youngs questioned how the House plan would allocate the sales tax back to the cities and if it would be based on the tax base, population, or land area.

City Manager Borgmann said that it is unknown how the sales tax would be allocated. He explained that the City of Miami Beach raised that question because they are a community of 90,000 with 1.4 million visitors every year that demand services.

Vice Mayor Youngs said that for the amount of taxes that are paid by Miami-Dade County it is very difficult to get back the funds for the public school system and the same could happen with a sales tax allocation.

11. Other Business:

11A) Vote of Confidence for the City Attorney as Required by Section 8.01 (1) of the City Charter

There was no discussion regarding this item.

Vice Mayor Youngs moved to give the City Attorney a vote of confidence. Councilman Best seconded the motion, which carried unanimously on roll call vote.

11B) Vote of Confidence for the City Clerk as Required by Section 8.01 (1) of the City Charter

Councilman Garcia moved to give the City Clerk a vote of confidence. Vice Mayor Youngs seconded the motion, which carried unanimously on roll call vote.

Mayor Bain said that City Clerk Magalí Valls does a great job, which is appreciated.

12. Reports & Recommendations:

12A) City Attorney

Vote of Confidence

City Attorney Seiden thanked Council for the vote of confidence.

Architectural Review Board

City Attorney Seiden reported that he attended the first meeting of the Architectural Review Board. He requested an agenda item for the next meeting to discuss some points so that the Board receives authorization to begin functioning in order to assist in creating the legislation that would help them do their job.

12B) City Manager

Water and Sewer Systems

City Manager Borgmann reported that the Administration would meet with Miami-Dade County Water and Sewer Department (WASA) on March 28, 2007 to discuss the possible turnover of the water and sewer system. He will provide a full report on the outcome of the meeting.

Miami Springs Elementary 70th Anniversary

City Manager Borgmann stated that he followed up with the Miami Springs Elementary School Principal in regard to the school's 70th Anniversary and he will attend the next planning meeting on Tuesday, March 27, 2007, to offer assistance from the City.

U. S. Post Office

City Manager Borgmann reported that he met with officials from the Post Office to find out about the situations at the local branch during the last three weeks when they closed and locked the doors or did not open on time. He said that the last incident involved a computer glitch, but they should have put a sign on the door. There has been a turnover of employees and he was assured that the problems were resolved and they look forward to a good working relationship with the City.

Legislative Budget Requests

City Manager Borgmann stated that the budget requests were submitted to the State and Federal governments and hopefully the City will be successful this year.

Curtiss Mansion Groundbreaking

City Manager Borgmann reported that the Curtiss Mansion groundbreaking ceremony is scheduled for Monday, March 26, 2007 at 1:00 p.m.

Little League Baseball

City Manager Borgmann announced that everyone is invited to attend the Little League Baseball Opening Day on Saturday, March 17, 2007 at 10:00 a.m.

Political Signs

City Manager Borgmann reported that when political signs appeared in the City many were not in the right location because they are required to be at least five-feet back from the property line. He explained that because the City was called to act upon one candidate's signs, the Code Compliance Officers had to act on signs for all candidates and he cannot direct Staff to ignore the Code when a complaint is registered.

City Manager Borgmann said that Council could direct him not to enforce the Code as to the five feet requirement because it creates confusion. At one time no yard signs were allowed, plywood signs were only allowed in commercial districts and the five-foot requirement was added for safety reasons.

12C) City Council

Political Signs

Councilman Garcia reported that all candidates have signs that are in violation, with the exception of one candidate who has not put up any signs. He explained that after signs are placed they are moved when lawns are cut or other reasons and Code Compliance Officers are going door-to-door hanging violation notices when they could be addressing more important issues.

Councilman Garcia asked if a moratorium could be imposed since the signs would be removed by the candidates in order to get their bond back.

Assistant City Manager Gorland explained that many new signs were placed over the weekend and the Code Compliance Officers were in the process of sweeping the City.

Councilman Garcia moved to impose a moratorium on the five-foot provision for political signs. Vice Mayor Youngs seconded the motion.

Councilman Dotson was of the opinion that the candidate should receive the violation, not the resident. He would not object to a moratorium on the five-foot provision.

Councilman Best said that in some situations it is difficult to position a sign where it can be seen.

On roll call vote, the motion was unanimously carried.

Curtiss Mansion Clean-up

Councilman Garcia announced that Curtiss Mansion, Inc. is holding clean-up days on Saturdays from 9:00 a.m. until noon in order to be ready for the groundbreaking ceremony. He said that everyone is invited to help, including the various clubs and school organizations. He emphasized that the groundbreaking event will take place at 1:00 p.m. on Monday, March 26, 2007.

Little League Baseball

Councilman Dotson reminded everyone that the Little League Baseball Opening Day would be held on Saturday, March 17th and he hopes that everyone can attend.

Miami Springs Elementary 70th Anniversary

Councilman Dotson thanked the City Manager for agreeing to participate in the 70th Anniversary of Miami Springs Elementary School. The next meeting is scheduled for March 27, 2007 at 3:15 p.m. in the Media Center.

Candidate Luncheon

Councilman Best stated that the Miami Springs Women's Club sponsored a nice event for the candidates, with a delicious lunch.

Little League Baseball

Councilman Best reiterated that the Little League Baseball Opening Ceremony will take place on Saturday, March 17, 2007.

Shade for the Tot-lot

Mayor Bain received a letter from Charles and Maria Bishop about the lack of shade at the Tot-Lot. He would like to schedule an agenda item for the next meeting to discuss the possibility of a portable shade system or the planting of trees.

City Manager Borgmann reported that the Administration had been working on the Mayor's request since the last Council meeting and hopefully it would be put out to bid.

Candidate Forum

City Manager Borgmann announced that Mr. Buzz Fleischman offered to spearhead a forum and act as the moderator at Miami Springs Senior High School on Thursday, March 22nd, but the City was requested to provide liability insurance in accordance with F.S.S. §758.28.

To answer the Mayor's question, City Manager Borgmann clarified that there would be no cost involved and the High School would be shown as an additional insured for the limited time period.

City Attorney Seiden stated that candidate debates are generally not sponsored by government but that Council could authorize the City Manager to permit the City's insurance coverage to be used for the event that would be sponsored by Mr. Fleischman.

Councilman Garcia moved to authorize the City Manager to permit the City insurance coverage to be used for the event. Councilman Best seconded the motion, which carried unanimously on roll call vote.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 9:55 p.m.

Billy Bain
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as written during meeting of: 3/26/2007

Transcription assistance provided by S. Hitaffer

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.